

ORIGINAL

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COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK : PART VII

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THE PEOPLE OF THE STATE OF NEW YORK :
: COURT CASE NO.:
-against- : 539-07
: LAMAR WHITEHEAD, :
Defendant. :
-----X

June 30, 2008
Riverhead, New York

B E F O R E: HON. JAMES HUDSON,
COUNTY COURT JUDGE

MINUTES OF SENTENCING

A P P E A R A N C E S:

HON. THOMAS J. SPOTA, III, ESQ.
District Attorney of Suffolk County
For the People
200 Center Drive
Riverhead, New York 11901

BY: RAPHAEL PEARL, ESQ.,
Assistant District Attorney

WILLIAM KEAHON, ESQ.,
Attorney For the Defendant

R E P O R T E D B Y:

LINDA DUTRA,
SENIOR COURT REPORTER

FILED

APR 29 2009

CLERK OF SUFFOLK COUNTY

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THE CLERK: Calendar number 21,

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Lamar Whitehead.

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MR. KEAHON: William Keahon for the

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Defendant.

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MR. PEARL: Raphael Pearl for the

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People.

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Judge, before we --I have two

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applications with O.P.s and judgements.

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(Whereupon the Defendant was

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incarcerated, and produced before the

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Court at this time.)

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THE COURT: Is your client ready

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for sentence?

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MR. KEAHON: Yes, Judge.

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THE COURT: Sorry to have kept you

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waiting.

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MR. KEAHON: I have a motion to

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make. I understand that Mr. Pearl has

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some housekeeping matters he wanted to

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address.

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THE COURT: Thank you.

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The People have an application

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prior to sentence?

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MR. PEARL: Two applications, your

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Honor.

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Initially, I have an application for a stay away Order of Protection to be issued. One in favor of Anita Bryant, and one in favor of Georgia Fortune. I'm doing this pursuant to CPL 530.13.

Initially, you heard from Ms. Fortune I believe at a hearing or trial where she established fact force to Court to find good cause to issue a Temporary Order of Protection. We've spoken to her since the conviction. She has continued to indicate she has fear from this Defendant. She testified at trial now.

And based upon the domestic situation they had, she's asking for a Stay Away Order of Protection.

Additonally, Ms. Bryant-- the Court found good cause to the issue the Temporary Order of Protection for the Co-Defendant awaiting sentence before your Honor in this case. She has indicated that she would like a Permanent Order of Protection.

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2 She still has a fear based upon her
3 testifying against this Defendant at
4 trial. And we ask for --the Order of
5 Protection be issued, as well, pursuant to
6 530.13. I believe it's subdivision four.

7 MR. KEAHON: To save some time,
8 your Honor, my client is prepared to
9 consent. And I would ask for a hearing on
10 these requests, but my client indicated to
11 me that he has no objection. He would
12 consent.

13 THE COURT: Thank you.

14 MR. PEARL: And, Judge, I do have a
15 second application when the Court is
16 ready.

17 THE COURT: Thank you. I'll hear
18 you.

19 MR. PEARL: Thank you, your Honor.

20 Pursuant to CPL 420.10, your Honor,
21 the People have submitted to the Court two
22 restitution judgement orders we're asking
23 the Court to issue.

24 This Defendant was convicted on
25 Counts Eleven, and Twelve, Thirteen, and

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2 Fourteen on April 1, 2008. Counts Eleven
3 and Twelve concern a BMW involved. Which
4 was Sweeney and Capital One Auto Finance.
5 Fifty five thousand dollars. Testimony at
6 trial, that was actually a funded loan.
7 It went through. As well as Counts Twelve
8 and Thirteen, was Woyciech Wachnik,
9 through E Loan Corporation; financed
10 \$64,000.00. I believe that was
11 established at trial.

12 Based on the fact that the jury
13 found the Defendant guilty of those counts
14 beyond a reasonable doubt, I'd ask that
15 restitution judgement orders be issued
16 pursuant to C.P.L. Section 420.10, to the
17 appropriate financial institutions.

18 MR. KEAHON: I'd oppose those being
19 granted, and ask for a hearing.

20 THE COURT: If I could see Counsel
21 side-bar for a moment?

22 (Whereupon an off-the-record
23 discussion was held between the Court, the
24 Assistant District Attorney, and the
25 Defense Attorney.)

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THE COURT: Based upon review of applicable statute of Criminal Procedure Law Section 420.10, it does not appear to mandate a hearing. And instead, based upon the proof adduced at trial, I find that the question of the restitution judgement order has been satisfactorily established.

The application for a hearing on the same, Mr. Keahon, then will be denied. Your exception will be noted.

The Court will issue two restitution judgement orders in the amount of \$64,000.00 to E Loan Corporation, and \$55,000.00 to Capital One Auto Finance. Once again, based upon what I felt to be unequivocal proof adduced before this Court at trial.

MR. KEAHON: Respectfully, I do take exception.

THE COURT: That is your right.

MR. PEARL: Thank you, your Honor.

THE COURT: People's application --I believe you indicated you had an

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application before the Court?

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MR. KEAHON: Yes, Judge.

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I reserved my right at the end of the trial, and after the verdict. And now, I'm making a motion for the Court to dismiss all charges presently pending against my client; as it's my belief having been the attorney during the entire presentation of the case, that there's been a complete failure of the People to prove their case beyond a reasonable doubt as to each of the charges, and as to each of the elements contained therein of each of the charges.

I base that not only on the record, but more specifically, I base it on several things I'd like to comment on now if I may, Judge?

THE COURT: Yes.

I'd like to hear you.

MR. KEAHON: The crux of the proof of the People's case was two-fold. That a computer found in my client's home that was used to store and transfer identity

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theft information.

This identifying information was stolen, and used from September '04 to January '05.

Unfortunately for the People, the proof in this case, was that the computer in question -- that is the one located at my client's home -- by the People's own proof, didn't get to the United States until January '05. And wasn't sold in a retail store 'til approximately March '05.

Secondly, the Prosecution's witness Valorie Rodriguez -- who worked at Baron Honda September '04 to December '04, testified that she never gave information, or made available information to my client 'til after January '05.

It's interesting that she never worked at Baron Honda in January '05. Her last day was mid December of '04.

In support of my position, I would remind the Court of Gilda Tricarico's testimony -- who was an executive employee at Baron Honda. And she testified that

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Valorie Rodriguez never had access to
dealer tracking programs, and a password
contained therein.

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Additionally, we know that a
computer expert at trial for the
Prosecution, in his report to the District
Attorney's Office, indicated that he
examined a Sony computer, not a Gateway
computer. That is a Gateway computer
taken from my client's home.

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Additionally, your Honor, the Court
denied all of my requests to make motions
concerning the search warrant at my
client's house, as well as the vehicle
that my client was stopped in.

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None of the other prior attorneys
had made such a motion.

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I asked the Court when I came onto
the case, permission to do that. The
Court denied me that opportunity.

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We know within the record, there
are numerous Brady violations. The record
is clear on that.

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We know that there are inconsistent

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verdicts as to 8 counts involving four
individuals that allege Identity Theft on
a specific date with a specific person.

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It's interesting that the jury
returned on four of those counts guilty,
and four not guilty. It's totally
inconsistent.

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I'd like to address myself to the
Probation Report, if I may?

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THE COURT: Yes. Certainly.

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MR. KEAHON: On page two of the
Probation Report; where it talks about
education and schooling, it fails to
mention my client had three years college
at both Shore University and Eastern New
Mexico University.

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I ask that the be included.

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THE COURT: Do the People wish to
be heard?

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We will go point by point.

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MR. PEARL: No objection, your
Honor.

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THE COURT: If I could have the
institutions again?

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MR. KEAHON: Yes.

Three years college between Shaw University in North Carolina, and Eastern New Mexico UNIVERSITY.

MR. PEARL: I believe that was somewhat mentioned in the body of the PSI.

THE COURT: It should also be mentioned there.

And if Counsel has no objection, we will write in, and insert at this time.

Thank you. Please continue.

MR. KEAHON: On the third page where it talks about my client's legal history, the third case with a date of 3/7/06, in the last column over to the right, it indicates on 10/17/06 he was found guilty. On 11/2/06; the return date, he paid \$200.00 bond and absconded.

He never absconded, anyway.

MR. PEARL: Judge, I would consent to having that pay \$200.00 bond and absconded removed after New Mexico, because that's the case that he paid \$200.00 bond and absconded to New Mexico.

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THE COURT: Mr. Keahon?

MR. KEAHON: I'll accept his agreement. I'll accept his agreement to take it out of where it has been put in by the Probation Department. But I will not agree to put it in another location.

MR. PEARL: Judge?

THE COURT: Do the People wish to be heard?

MR. PEARL: Judge, we had this during the --before Judge Pits, I believe, during --for the bail hearing. And we've spoken with New Mexico authorities personally, Ms. Franzese and myself.

They indicated that-- it says in the PSI -- I believe it's just ministerial error, where she didn't attach it to one below it. Instead, the one above it.

But we're told by the Corrections in New Mexico, it was \$200.00 paid on the misdemeanor. The Defendant absconded. And they will not extradite outside the State of New Mexico.

THE COURT: All right.

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But since it does appear in error,
and you have conceded it does not properly
appear before the matter in New York
Supreme, I will strike it.

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MR. KEAHON: Thank you, Judge.

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As to the next item that's
indicated; 6/11/06, Careless Driving, this
information is supplied by the Suffolk
County District Attorney's Office that
such a charge exists. And that as per
Suffolk DA's Office, will not extradite.

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There is nothing on any record
check that they could supply to this
Court, that indicates anything about
extradition, anything about a \$200.00
bond, anything about absconding, and
anything about Careless Driving.

And if they can't produce it now, I
ask that it that be stricken.

MR. PEARL: Judge, during the writ,
Mr. Keahon talked about this. And his
client agreed that he has Careless Driving
in New Mexico.

So, I don't understand why there's

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one thing said before one tribunal, and
something else said before this tribunal.

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That was not the argument when we
did the writ. They agreed there was
Careless Driving. They're now saying it
doesn't exist.

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To clarify, you could go under New
Mexico.com. The corrections system. You
could see it listed right there.

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THE COURT: Mr. Keahon?

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MR. KEAHON: Respectfully, Judge,
if I made any comment at some other
occasion in front of some other Judge, I
would have --it's a traffic ticket, that's
all. Not Careless Driving. Not a
misdemeanor. Not anything about
extradition. Not anything about \$200.00
bond and absconding.

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THE COURT: Are we aware as to what
status the Careless Driving is listed,
since there is no--

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MR. PEARL: It's a misdemeanor.

THE COURT: Is it a misdemeanor?

MR. PEARL: Yes, in New Mexico.

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THE COURT: Does it correspond in
an unclassified misdemeanor in New York?

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Do they make distinctions --

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MR. PEARL: That, I don't know.

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THE COURT: --with laws in our
sister jurisdiction?

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MR. KEAHON: Why wouldn't it show
up in a record check?

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MR. PEARL: It did. That's how we
know about it.

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MR. KEAHON: Respectfully, this
information has to --6/11/06 was clearly
supplied by the District Attorney's
Office.

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THE COURT: Does it appear on the
NYSID?

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MR. PEARL: Judge, I don't have the
NYSID before me.

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MR. KEAHON: It doesn't.

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THE COURT: As an Officer of the
Court --

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MR. KEAHON: I'd take that back. I
don't think it does.

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THE COURT: All right.

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Then, in that case, we will move to
the next one.

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Your application to strike that
will be denied. Thank you.

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We'll move to the next.

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MR. KEAHON: But, if he can't--
respectfully, if the DA can't state to you
totally, that it does appear on the NYSIS,
then we're at a draw. And think my client
wins.

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MR. PEARL: Judge, I could state as
an Officer of the Court, we spoke to the
Corrections Department in New Mexico.
They verified the warrant. They verified
he absconded. They verified the bond.

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It's more reliable than a NYSID.
We actually spoke to the
Corrections Department in New Mexico.

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MR. KEAHON: Who spoke?

MR. PEARL: Ms. Franzese and
myself.

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MS. FRANZESE: I did.

THE COURT: Your word, as an
Officer of the Court?

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MS. FRANZESE: I did, your Honor.

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I also spoke with the Magistrate.

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Jodi Franzese for the People.

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THE COURT: Yes. Thank you.

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Yes. That was sufficient.

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MS. FRANZESE: Yes, Judge.

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Thank you.

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THE COURT: Then it will remain.

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Your objection will be noted.

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MR. KEAHON: Thank you, Judge.

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We take exception.

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The 7/16/07 on page three; which

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indicates 2/28/08 over on the right-hand

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side with O, and then 4/24/08 VFWO --

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whatever that stuff means, I don't know --

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I move to strike it. And in its place,

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indicate that my client received an

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A.C.O.D. Because I spoke to the attorney

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that handled it.

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His name is Jim Cassoris.

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MR. PEARL: Yes, Judge.

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We spoke to an Assistant. It was

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somebody different. But A.C.O.D.d out.

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THE COURT: When was an A.C.O.D.

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granted?

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MR. PEARL: Maybe a week or two

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ago.

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MR. KEAHON: I think maybe three or

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four weeks ago, Judge.

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THE COURT: Any objection to

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striking these, other than to note that it

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was-- there is an A.C.O.D --

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MR. KEAHON: Yep. That's fine.

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THE COURT: --pending at this time?

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MR. PEARL: No objection, Judge.

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THE COURT: Thank you.

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MR. PEARL: Judge, if we're going

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to do that, 3/7/07; the Defendant's

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conviction in Manhattan was upheld by the

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First Department. And is-- leave to

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appeal was denied by the Court of Appeals.

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So, could we amend the PSI to

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indicate that the Defendant was sentenced

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to one year in prison based on his

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conviction in Manhattan Criminal;

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Possession of Stolen Property on 3/7/06?

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THE COURT: Mr. Keahon?

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MR. KEAHON: Judge, I have no

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problem with the fact that he was found guilty, and he was sentenced to one year.

THE COURT: Thank you.

MR. KEAHON: Next, Judge, the January 27, 2006; on the legal history, indicates he was charged with Possession of a Stolen Handgun, and Possession of a Bullet Proof Vest.

It's my understanding that --based hearsay; but I believe it to be accurate, because I'm told that an attorney from New Jersey was spoken to -- not by me -- that there was no charge of Possession of a Bulletproof Vest. And that the other charge was Theft of a Gun, not Possession of a Stolen Handgun.

THE COURT: People?

MR. PEARL: Judge, I don't know exactly what New Jersey --other than, I do know he was in possession of a stolen handgun stolen from Virginia. It was in his house. He's being prosecuted in Burgon County, New Jersey.

I spoke to an Assistant District

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Attorney. And that might be going to

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trial, as well.

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MR. KEAHON: Did he receive an

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A.C.O.D. on that?

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MR. PEARL: No.

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MR. KEAHON: Can you tell me what

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disposition was worked out; if any?

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MR. PEARL: It's pending. It's not

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resolved yet.

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MR. KEAHON: And I don't know if a

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detainer was actually lodged.

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MR. PEARL: I think it was in our

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jail. I believe it was.

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I think the 1/11 date there was a

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hold on the Defendant in Burgon County

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based on that handgun. I just don't know

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what the statutes are in New Jersey. How

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their statutes read.

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MR. KEAHON: Okay.

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Judge, if I may on page four?

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THE COURT: Yes.

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MR. KEAHON: The third paragraph

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from the bottom. And this paragraph is

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talking about a meeting the Probation

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Officer had with two Prosecutors on the
case.

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And it was in party to-- based on
this paragraph -- to the Probation

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Officer -- that quote a few of the

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Defendant's victim were from other states

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including Tennessee and Florida. And it

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was believed that a million dollars. And

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it is believed that the Defendant's scheme

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netted at least a million dollars. With

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much of the fraud involving on-line banks.

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I move to strike that number. That
was never proven.

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We have the District Attorney

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standing before this Court prior to even

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the sentencing begun, asking for a

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restitution order in the amount of

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\$65,000.00 for a Mercedes. And \$55,000.00

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for a BMW. And 55 and 65 is not a

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million.

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THE COURT: It clearly states this

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is the People's opinion. The Court knows

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what the proof was adduced at trial.

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MR. KEAHON: So, then I ask it

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--that be amended. Because you then know
that this --the proof was 55 and 65.

THE COURT: Well, the scheme to
defraud, however, is in some ways
open-ended.

MR. KEAHON: No. "Netted at
least."

THE COURT: Excuse me?

MR. KEAHON: The words are, "Netted
at least." That means in your pocket.
Netted.

THE COURT: Do the People wish to
be heard?

MR. PEARL: Judge, we did have a
discussion with the Probation Department.
I don't think that's an exact statement of
what was said. The entire Scheme to
Defraud --including out of jurisdiction
cases --was approximately over three
million dollars worth of thefts.

He netted approximately; give or
take, around a million dollars outside,
including the entire scheme.

The People are aware that this

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Defendant was defrauding over 55 other
victims outside of the limited Suffolk
County victims.

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In Suffolk County, the Defendant
netted \$134,000.00. And he approached a
million dollars of attempts to scheme.

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That's what it --we discussed with
probation.

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THE COURT: So, it appears that the
Department of Probation inadvertently
mischaracterized some of your statement.

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MR. PEARL: Yes.

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And it was a very complicated
indictment.

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THE COURT: Then when you say net,
you agree that should say \$134,000.00?

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MR. PEARL: Yes, Judge.

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MR. KEAHON: Before you mark that,
it's my position to say 120--the only
proof we have, is 65 and 55.

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My math --I may be wrong-- that's
120,000.

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MR. PEARL: We also have the motor
vehicle from E Loan was convicted of in.

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MR. KEAHON: You --he got it back.

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MR. PEARL: But he netted at one

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point.

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MR. KEAHON: No. That's not

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necessary.

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THE COURT: I'm going to leave it

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at \$125,000.00.

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MR. KEAHON: Respectfully take

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exception.

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Thank you, Judge.

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THE COURT: Thank you.

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As you were saying, Mr. Keahon?

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MR. KEAHON: Yes.

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I take issue with the statement

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contained at the bottom statement. The

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same paragraph that ADA Pearl feels this

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is the biggest ID theft in Suffolk County

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history. And that the Defendant is a

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significant part of an ID theft ring.

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Number one, there's been no proof

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of --establishing that my client was part

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of an ID theft ring.

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And secondly, that this is the

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biggest ID theft ring in Suffolk County

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history -- I don't know how he makes a statement like that.

We know this probation report follows my client to any upstate facility that you may --that he may be directed to. And that when the parole board makes certain decisions on parole, they look to the integrity of this report in guiding them to make any decision.

THE COURT: People?

MR. PEARL: Your Honor, I don't recall specifically saying this to probation. But frankly, it is the largest identity theft to come through Suffolk County. The largest Identity Theft trial to be done in Suffolk County. Particularly, since the statute was enacted in October of 2002.

And that being said, Judge, we are aware with the investigation --it came out through the trial --that this Defendant was using other people in part of the ring. He was one of the central players of the ring.

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That being said, your Honor, it is what --it is my opinion it is one of the largest Identity Theft rings to come through Suffolk County since October 2002, when the statute was enacted.

THE COURT: Thank you.

Thank you, Mr. Keahon. Your exception being noted; the People's opinion will remain in the Presentence Report.

MR. KEAHON: Well, then, they --he just stated --respectfully, your Honor -- that it's one of the biggest. Not the biggest. And the words in the probation report indicates that he feels that it is the --

MR. PEARL: I'll correct myself, Judge. It is the biggest Identity Theft made.

MR. KEAHON: The record is made.

THE COURT: Then we will move on.

MR. KEAHON: Yes. Thank you.

The same page, last paragraph, Detective Gabriel states that he believes

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that there were additional cases in

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Suffolk County. Around 55.

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A, there's no proof of that; where

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this county does not have jurisdiction.

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B, there's no proof of that.

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I limit myself to that comment at

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this point in time.

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THE COURT: Do the People wish to

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be heard?

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MR. PEARL: Judge, just what page

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are we on?

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THE COURT: This is page four at

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the ultimate paragraph.

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MR. PEARL: Judge, there were at

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least 55 other cases.

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Once again, I think it's a

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ministerial error in the PSI that were

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outside the jurisdiction of Suffolk

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County. That's why we didn't have

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jurisdiction to prosecute the case.

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THE COURT: We come back. It's

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troublesome to list uncharged crimes which

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the Defendant was not obliged to defend at

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trial. And that he should not have to

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defend at this juncture.

So, the reference to the additional cases in Suffolk County are around 55 -- which this county does not have jurisdiction -- will be stricken. And we'll begin then, the paragraph, "Detective Gabriel states that the Defendant was obtaining loans on line."

Thank you, Mr. Keahon.

MR. KEAHON: Thank you.

Also, the statement that-- the last sentence on page four. "The Defendant was obtaining loans on-line, and over the phone, and believed to be part of a New York identity fraud theft ring."

THE COURT: For the reasons in which I allowed it to be included based upon Mr. Pearl's statement, I will allow it to remain in as a statement from Detective Gabriel.

Your exception will be noted.

MR. KEAHON: Thank you, Judge.

THE COURT: You're welcome.

MR. KEAHON: Page 5; the top. "He

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believes that the Defendant got

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identification information from his

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girlfriend, and others; and used this

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information to secure loans."

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There is nothing in this record

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that indicates that my client got any

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identifying information from any others.

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THE COURT: I believe that was the

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proof adduced at trial resulting in your

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client's conviction.

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Mr. Keahon, I don't think --your

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exception will be noted. It will remain.

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MR. KEAHON: Thank you.

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Robert O'Shinski. Page 5, the

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second to last paragraph; the middle of

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that paragraph.

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"He" --meaning Robert

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O'Shinski ---"stated that the Defendant

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never showed up." But the paperwork was

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dropped off. By who, we don't know. And

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he knew that the Defendant had tried to

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swindle Land Rover of Massapequa, but was

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unsuccessful.

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Respectfully, Mr. O'Shinski knew

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nothing.

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THE COURT: People?

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MR. PEARL: Judge, that was the
proof adduced at trial.

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The Defendant dropped off the Land
Rover paper. His fingerprints were on it.

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He tried to --for lack of a better
term --swindle, I believe 55 thousand
silver Land Rovers or Range Rovers from
Massapequa.

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MR. KEAHON: Respectfully, the
paragraph I'm citing to the Court is
indicating in the probation report that he
had some type of special personal
knowledge, when he had none.

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THE COURT: Thank you.
Your exception being noted, it will
remain in the Presentence Report. Thank
you.

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Mr. Keahon?

MR. KEAHON: Thank you, Judge.

There's a series of individuals
that are quoted as indicating about their
credit being ruined and damaged. And it

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goes on for several pages.

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I would note for the Court, that you were present in court. And I would say 90 percent of the people that were asked --when they were permitted to be asked --"What's the status of your credit? And were you affected by it?", they said, "No."

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THE COURT: Well, the --with exception of the first person who I think the People had asked a question, and then an answer was given that I sustained your application to bar the People from making inquiry because I felt it had no bearing whatsoever on your client's guilt or innocence --effecting the crime; if any. But they are appropriate at this juncture for the Court to consider.

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Your application in that regard is denied. And your exception will be noted.

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MR. KEAHON: Thank you, Judge.

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That's --I have nothing else to say to the Court, other than, respectfully I do believe that this case will be reversed

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on appeal. I believe that there is significant issues for the Court.

My client's family are presently in court. As his wife, mother, and other relatives.

And this is a non-violent crime. We have people every day in this county, that are charged with Rapes and Manslaughters; that are sentenced to 5 years, 7 years, 9 years.

This is non-violent. The amount of money that's in dispute in this case, is --as we've said --\$120,000.00.

I know the District Attorney's Office is going to ask for the maximum sentence.

Why? I don't understand. Maybe it's good print news. I don't know.

But, I ask the Court to show some mercy as to my client.

THE COURT: You have the right to speak after your colleague makes his recommendation of the Court. First, however, I will rule on your application

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to dismiss the indictment before this Court, pursuant to Article 332.

Do the People wish to respond?

MR. PEARL: No. We'd rest on the record at this trial.

Additionally, just to make it clear so it doesn't sit out there; there were numerous motions made in this case, including a motion for a Probable Cause Hearing, and other types of suppression hearings.

I believe there were two Omnibus motions submitted to the Court through the four Counsel that came in on this case.

They were all answered. And they were denied by this Court appropriately; it's the People's position.

I just didn't want to leave that out there hanging; that there were suppression motions made. The other Counsels made those before Mr. Keahon came on the trial.

MR. KEAHON: I reviewed respectfully, your Honor, the motions of

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the other Counsel. Not one prior Counsel requested, and put in supporting documents and/or information that would require the Court to consider an attack on the search warrants of both the house and the car. That's why I asked for the opportunity to do so.

One of the prior Counsel said it should be suppressed, but offered that it's -- told us that the car and house should be suppressed, but offered no legal basis. I wanted the opportunity to do that.

Respectfully, this Court would not permit it. And that's the way it went.

THE COURT: Your predecessors' motions also resulted in a hearing being set down on the question of identification --which was successful to a large extent, resulting in suppression of same.

But, you took up the cause late, Mr. Keahon. You did an outstanding job.

MR. KEAHON: Thank you, Judge.

THE COURT: Which I have only

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compliments.

Now, the --based upon the People's response to your verbal motion, and for the-- based on the proof adduced at trial, I find that there is no basis to grant your motion to --seeking to set aside the verdict of the jury, or to dismiss the indictment your.

Exception will be noted.

MR. KEAHON: Thank you.

THE COURT: Thank you. We will proceed.

Before I hear the People's recommendation, do any of the victims, or victims' representatives wish to address the Court?

MR. PEARL: To that end, there is nobody in this courtroom to speak.

I would point out that Nerina Sperl did show up on two or three occasions to speak. I --obviously sentence was adjourned. She wasn't able to make it today.

She did want the Court to know that

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she had a --put in significant hours to help fix her credit problems. Even though it was caught early by the Suffolk County Police Department, she didn't suffer that kind of consequences as some other victims did.

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And that is the --really affected how she does business, and how it affected her, and her ability to trust other people.

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I do have a letter from Gloria Conaty, that I'd like to read into the record, that she wrote to the Court.

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It's dated April 28, 2008.

It says, "To the Justice of the Criminal Court, I would like to have this statement read into the criminal proceedings pertaining to charges of Identity Theft, perpetrated by Mr. Lamar Whitehead."

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"Mr. Whitehead; without my knowledge or consent, illegally accessed personal credit information by use of the internet. He unlawfully obtained this

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information from Baron Honda's computer files."

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"Fortunately for me, the vigilance of the Suffolk County Identity Theft Squad prevented any illegal transaction from taking place. Had it not been for the prompt action from the police, I could only image the irreparable damage that could have been done to my credit rating."

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"The very nature of Mr. Whitehead's crime is a personal affront to me."

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"I believe that the Court's responsibility, is to protect the rights of law abiding citizens. I feel that my rights were violated. And I hope that the Court will render a just punishment for Mr. Whitehead's theft of my identity."

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"Respectfully, Gloria A. Conaty."

Additionally, your Honor, if I may continue?

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THE COURT: Yes, please.

MR. PEARL: Your Honor sat through the-- I guess approximately 9 week trial. You heard every victim that marched

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through this courtroom, and testified

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about how each had to endure having their

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credit affected.

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This Defendant victimized over a

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dozen Suffolk County victims. He also

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victimized people from the State of

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Tennessee, and the State of Florida.

9

Being Rhonda Ghassabian and Christina

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Brooks from Florida.

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In the course of the these thefts,

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it's the People's position that the

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Defendant obtained \$134,000.00 of cash or

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automobiles. And he approached a million

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dollars in theft.

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I did specifically remind the Court

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one person who wasn't able to be here.

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Rhonda Ghassabian from Tennessee. She is

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due with child very shortly. She wasn't

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able to make the trip.

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She testified at trial. She told

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us countless times, it took her over two

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and a half years to be able to get any

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credit after this Defendant victimized

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her.

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And I remember Ms. Ghassabian's personal information was found in the jacket --in the sleeve. Her date of birth, social security number, and her name.

You have Woyciech Wachnik; who's still having trouble. Getting calls from creditors because of the Land Rover this Defendant tried to steal.

Your Honor, this Defendant; in a systematic way, went around and destroyed good names and reputations of all these victims.

The Court had the opportunity to see through the course of the numerous conferences and the 9 week trial, how this Defendant displayed a level of --for lack of a better term --uberous and greedy. I'd suggest, rarely seen in this court house.

This Defendant used everything and anything to avoid responsibility. Including not taking any responsibility for his actions in the PSI.

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And I venture to guess he won't
take any responsibility for today.

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He doesn't deserve any mercy from
this Court.

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This Defendant went so far as to
use his own child as an excuse to get
mercy from this Court. And at one point,
dressed as a priest, and came into the
courtroom, and sited scripture to this
Court.

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Along those lines, your Honor, when
--the People do recommend state
incarceration. And I hope the Court does
sentence the Defendant to state
incarceration.

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There is a scripture that this
Defendant should be mindful of from the
Book of Proverbs. And it's, "A good name
is to be more desired than great wealth.
Favor is better than silver and gold."

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That is something that the
Defendant could spend his time; when he's
doing his state time, thinking about.

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Accordingly, your Honor, the People

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are making the following recommendations:

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As to Count Three, we recommend two and third to 7 years. As to County Four, the People recommend a consecutive two and third to 7 years. As to Count Five, the People recommend an additional consecutive two and third to 7 years. As to Count Six, the People recommend a consecutive two and third to 7. As to Count Eleven, the People recommend a consecutive two and third to 7. As to Count Fourteen, the People recommend a consecutive two and third to 7. For a total of 14 years to 42 years.

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I do understand, your Honor, that pursuant to Penal Law Section 730, that it may be modified to the sentence to read as an indeterminate of 10 to 20. However, the People are still recommending their sentence of 14 to 42 years.

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Your Honor, as to each and every other conviction -- and I'm not going to go through each one -- we'd ask the Court to sentence the Defendant to the maximum

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state prison to run concurrent with that

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14 to 42 years.

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Thank you, your Honor.

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THE COURT: Thank you very much,

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Mr. Pearl,

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MR. KEAHON: Just one comment if I

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may, Judge?

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THE COURT: You may speak at length

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if you wish, Mr. Keahon. It's your right.

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MR. KEAHON: As to the comment by

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the Assistant District Attorney that my

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client made no statements saying that he's

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sorry in the PSI, I think is uncalled for.

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I think it's improper.

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He's read the PSI. He saw where

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the probation officer indicated that --I

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indicated to probation that my client was

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--would not make any statements. So, it's

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me; the.

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MR. KEAHON: , who gave instruction

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to the client not to make any statements.

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And then again, to refer and tell

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this Court that comment for a predicate to

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the sentence of my client not admitting

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his guilt, and therefore sentence him more

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harshly because he refuses to accept his

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guilt, I would suggest to the Court that

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he has every right to stand mute; to let

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me address the Court. And to hope and

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pray that in the appellate process this

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case will be reversed.

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So, I don't know if you want to say

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anything?

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THE DEFENDANT: Yes.

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MR. KEAHON: Okay.

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He does intend to say something,

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Judge. I'm finished with what I had to

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say.

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THE COURT: Thank you, Mr. Keahon.

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It's your turn, Mr. Whitehead. Is

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there anything you wish to say before the

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Court imposes sentence upon you?

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THE DEFENDANT: First and foremost,

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I just want to thank God for allowing me

22

to wake up to see today.

23

Second, I want to thank my family

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for supporting me.

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And, um, that --this have been a

1
2 rough, rough time for me and my family.
3 This District Attorney sits here as an
4 Officer of the Court, portrays to be a
5 perfect Officer of the Court. Which he is
6 not.

7 They've put my family and myself
8 through so much trials and tribulations,
9 beyond your wildest imagination. They've
10 had friends from New York City arrest me.
11 They've took me out in the rain, carrying
12 my bags, shackled up.

13 Everything that this District
14 Attorney had to do. He deceived the
15 Court.

16 If the victims was here during this
17 trial, they would have no hatred for me,
18 whatsoever. If the victims was able to
19 see the things they covered up, they would
20 have no hatred for me.

21 Mr. Keahon is a phenomenal
22 attorney. He's a blessed man by God.
23 Because he didn't have to treat me the way
24 he treated me.

25 I've been through three attorneys

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prior to Mr. Keahon, that all ripped me off. First and foremost, Robert Macedonio lied to me over and over again; because of my distance. I lived in the city, and he worked out here.

All he told me, was that he was putting in motions on my behalf. "There's no way. There's no way they're going to be able to convict you." Putting in motions.

And then there's a letter from the District Attorney that says-- in receipt to my.

MR. KEAHON: --they-- that he never told me about on September '06 -- said they have no --"We have no voice recordings, whatsoever." But in August of 2005, they played those voice recordings. They overwhelmed the jury within the Grand Jury.

So, they have misled attorneys.

The same letter, they said that the --the same letter they wrote, said they have no voice recordings. They played

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those same voice recordings in August 2005. That's all the District Attorney did. Kept misleading.

And I just want to thank you also, for being the Judge that you are. Because you respected me as a man. You looked at my character.

You've been a Judge for quite some time. You seen different types of people come in front of you.

And, your Honor, I don't have to do nothing illegal. I have a family. I'm married.

Tomorrow is my first year anniversary. I spent my birthday in here.

I'm a family man. I have my son. I would never put my son on the line. Never.

My father was killed when I was two months old, by police officers. White police officers. But, do I hate white people? No.

In the bible --since you want to get biblical --it says, "You can defile a

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man with words. But what not goes into
his mouth, but what comes out his mouth
that comes from his heart."

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That's how to defile a man's
spirit. From his heart. You look at a
man's spirit.

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These people put me through pain,
man. Pain. Pain. Beyond pain. And left
my wife out there with nobody.

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I didn't know I was going to get
remanded. I didn't know that.

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I had business venture that I
worked.

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I've been in front of your Court
two and a half years. Never missed a
court date. I respected you.

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And, your Honor, you told --you
said, "Mr. Whitehead, I promise you'll
have a fair trial."

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And that's all they did, man, was
play under the table. And deceive, man.
Make everything look right. It wasn't
that.

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That Detective Gabriel, man. He

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tormented me, my family. Tormented my
business while I was trying to make money
to pay for an attorney.

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He called my office. Threatened my
employees.

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They --you want to talk about
credit?

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My credit is shot. I lost my house
because I've been incarcerated. They
spreaded me throughout the papers.

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And for you to say that I can't
come in here and walk as a priest?

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Listen. I fear God. I don't fear
you. I don't fear the District Attorney.
I fear God.

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For me to come in here as imposter
--you --I don't --you have no respect.
You --there's no way I could respect you
more than God. Just to impose as
something. I don't impose.

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And if you want to get back to
scripture-- 105.15 says, "Touch not my
appointing, and do my prophet no harm."

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And if you want the scripture, look

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2 at the Judge. And ask Judge Hudson --this
3 is why judges was profound to be judges.
4 And chapter two and 16, it says that God
5 was with the judges because Israel was
6 being taken over by the Babylonians. And
7 so, God loved Israel. And so that --and
8 he didn't want to see Israel die, too.

9 So, this is what brought forth
10 judges, so Israel would not spoil. So the
11 judges could judge the enemy, to save the
12 righteous, and look at their heart, and
13 understand.

14 I love God. And you quote me
15 scripture about there's a season. There's
16 a season for mercy and a season for
17 leniency. And a season to see my spirit,
18 and understand that my son and my wife
19 don't deserve it, man.

20 I wasn't accused, or convicted of
21 hurting nobody. And these numbers
22 --that's like killing someone. Come on,
23 man.

24 You-- look at my record, man. Look
25 at my record, man. I help young people.

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I help the church.

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I don't have to sit here, and say--
lie to nobody. I don't need no leniency
from Mr. Pearl. All I need is leniency
from God and Jesus Christ, man.

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And, yes. I am an ordained
minister. And, yes. I preach. Yes. I
preach the gospel.

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Judge Hudson, man, like I told my
wife as she cried to me on the phone from
time to time that she's struggling --I
said, "You got to be strong." I said
--and I call her baby. I said, "Baby, I
drink juice out of a lotion bottle. They
have done me wrong."

17

AUDIENCE MEMBER: Oh, God.

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THE DEFENDANT: They have done me
wrong, Judge Hudson.

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Not to mention through my
investigation, Macedonio was friends with
Detective Gabriel. He used to go to high
school with him.

24

They done me wrong, man.

25

When they took me in the alleyway.

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When I came to you and told you they took
me in the alleyway, you said my attorney
will handle it.

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Macedonio ain't do nothing.

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My other.

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MR. KEAHON: Camille Abbate, she

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took my money, and left because she's

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running for office.

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I was so --this is new to me. Your

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Honor, man, don't take me from my son. My

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son needs me. I'm not using my son as

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leverage, but my father was taken from me.

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You think just --and I know this is

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going to get overturned. I know this is

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going to get overturned.

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Mr. Keahon had to do what he didn't

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do for me, your Honor.

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I was scared. I was scared. I

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didn't trust nobody. I was scared.

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And you want to know what? That's

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why every time I came to court, they want

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to remand me.

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And you said from my --out your

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mouth, "Bail is not punishment. It's

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surety that he comes back."

I never disobeyed the Court.

And Mr. Keahon will call me times of night, just to talk to me, and ask me different things.

Your Honor, man, my first year anniversary is tomorrow, man. I'm in New York theological seminary; which is a ministerial school that I was president of my class. I was president of my class. And I couldn't finish my other semester because I was remanded.

I deal with the District Attorney's Office in Brooklyn helping kids, starting a program while this was going on.

Your Honor, I don't have to lie to you.

The other thing is --another thing. When you read the bible, it shows you can't change character. You can't change spirit. You could fool somebody for a little while, but you can't change it. The real them will come out.

You've seen me two and a half

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years.

And First Corinthians 11, 13, and
--um --13 and 11, it says, "When I was a
child I thought as a child. I understood
as a child. But now with God I'm a man."
Since you want to get biblical, Mr. Pearl.

And they it says that in Psalms 23,
"Though I walk through the valley of the
shadow of death, I'll not walk through to
death because God is with me."

This is just a shadow, because this
will be overturned.

And the things that I seen Mr.
Keahon pick up, he didn't have to do that.
He didn't have to do what he did.

And I just ask you to just
consider -- your Honor, when you said that
as a --there's a season for trial, I went
out there and tried to find a lawyer. I
found him two days. And I met him--I met
him two days before my trial.

I drove out here to meet with him.
I drove out to meet with him.

And I established my character with

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him. I established my --who I was with

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him.

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He would have never took this case.

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Not before no money. He would have never

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took this case.

7

And he complimented me throughout

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the trial. He said, "Lamar, you're a good

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client." He said, "You fight them,

10

Lamar."

11

That's what I'm about, Mr. --Judge

12

Hudson. I got to fight for my freedom.

13

They did my family wrong, man.

14

They made this whole case--my life a whole

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debacle, man. I didn't know which way was

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up or down.

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I could remember I called your

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office. I was afraid. I was afraid that

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--to be --I'm just going to be honest. I

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was afraid they had your ear.

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I was afraid the things they were

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doing. Things they were doing to me that

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you don't know about.

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It will take me all day to explain.

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But, they know, and he knows. It was

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personal vendetta.

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It's not about-- you could put
aside --I'm just talking about my
character. You could put aside the guilty
or not guilty. Put aside. But fighting
fair. They did not fight fair. That's
why he has a smile on his face.

Mr. Pearl, man, let me tell you
something, man. I just want to say one
thing to you. That I'm still going to be
a man of God no matter what you say, man.
No matter what you do, I'm still going to
love my Jesus. Because he died for me.
He didn't have to die. He died for me.

And I don't have to perform for
you. For what? You have no judge over
me. I don't have to perform for you.

You know in your heart you deceive.
You did everything possible. Every
witness that you put up there to talk
against me; Mr. Keahon caught them in
numerous lies. And they had agreements.

Your Honor, all I want is a chance.
My son first birthday is coming up. And I

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want to be there. My father wasn't there
for mine.

3

4

And then he says 14 to 42 years.

5

Who did I kill?

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I read in the paper --I've been
studying. Men stole 450 million dollars,
getting 14 to 20 years. A man stole 200
million dollars. Getting 6 years.

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And he says 10 to --14 to 42 years.

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People killing people getting two to
fours, and he says 14 to 42 years.

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Your Honor, all you did was respect
me every time I came to this court. I was
a little frightened once you remanded me,
but I got closer to God. I got closer to
my wife. I got closer to my family. I
got closer to them.

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I understood who have my back, and
who don't. There's a season for time
where you got to see who have your back.

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My lawyer had my back. I keep
saying that, because you don't understand
how I've been ripped off. You --he had my
back. And he gave me time to talk. He

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talked to me. Nobody want to talk to me.
I didn't understand this.

Manhattan trial was atrocious. It
went a day and a half, almost two days.
It was atrocious. I didn't know which way
was up.

And this is what they did to me.
And I've paid the price.

And these victims says that it took
them years. A lot of my business partners
Googled my name. My business --a lot of
business down the drain. No trust.

District Attorney stole my
identity. I went through pain, your
Honor.

I don't know if you already have a
sentence already written down, or if this
made any sense. But, I've sat here and
watched you two and a half years give
mercy to people, and give leniency to
people. And I seen you sentence a lot of
people. And seen their families cry. And
I seen them-- I seen it.

And I ask --actually, your Honor,

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when you sentenced one of the boys --a boy
killed someone. I'm going briefly. His
family was out there. They went out. And
they was all discombobulated. And they
had a press circle with them.

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And I prayed with them, because
they needed strength. That's when I had
my collar on. I prayed with them because
they needed strength.

11

12

And do you know, your Honor? I had
so much to think about when I was in jail.

13

14

15

You have a nickname in there.
That's scary. They call you Hang 'em High
Hudson in there.

16

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THE COURT: It's more because of
the H with the H, anyway, with the names.

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THE DEFENDANT: They said you
sentence hard. That's what they say.

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And this is torment. And then this
District Attorney calls my attorney. The
District Attorney calls my attorney to
show-- they know they're going to lose
--to say they want to work out something.
They want me to admit. They would give me

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a lesser sentence.

Yes. That's why they kept postponing; to give me a lesser sentence so then-- that I won't appeal.

MR. KEAHON: Judge, let me clear up the record in that regard.

I had conversations with the District Attorney's Office. And I know that the Court on occasion will sentence more leniently if the individual accepts responsibility at the time of sentence. So, I had a number of conversations with Mr. Pearl, and with Jody; concerning where they would be at in recommendation. Depending upon what might be said by my client.

I passed that along to my client.

I had a number of conversations with the Assistant --District Attorney's Office. And it was not going to go anywhere. It was not something that I could accept, or that he could accept.

So, I just want the record to be clear on what my client is talking about

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there.

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THE COURT: Thank you.

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MR. KEAHON: And I felt it was
imperative for me to put that on the
record.

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7

THE COURT: Thank you.

8

9

THE DEFENDANT: Your Honor, I'm
pretty much done.

10

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12

13

You know, I just ask you for
leniency, your Honor. And just, your
Honor, just look at me, man. You seen me
from a boy turn into a man.

14

15

Jail is not going to do anything
for me. Nothing.

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19

I'm already intelligent. I'm
already helping people. I'm already
walking the walk of God. I'm doing the
right thing.

20

21

22

I haven't been in trouble until the
detective calls his friends, and arrests
me. And then they dismiss the charges.

23

24

25

But, I haven't been in trouble,
your Honor. I haven't done anything
wrong, your Honor.

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2

Jail is not going to do anything
for me. Nothing.

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If you give me a thousand, or two
thousand hours of Community Service, I
will serve that to serve and help people.

5

6

7

I have prayer every night. Every
single night I have bible study. And
every Sunday I preach to them about God.

8

9

10

Use me to change a lot of them
brothers in there. Their lives, man.
People that got sentenced to 25 years to
life.

11

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14

Your Honor, jail is not going to do
anything, your Honor. All it's going to
do, is hurt my family, hurt my wife.
She's struggling. Hurt my son.

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It's rough growing up without a
father. It's rough, your Honor.

19

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Especially to be my race. It's rough.

21

22

And I'm not asking for no-- I'm not
playing no pity party. I'm talking from
the heart, your Honor. The heart.

23

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That's all. I'm finished talking
about it, your Honor.

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Your Honor, I know God is with me.

3

And I just want to say this last thing,

4

your Honor. When I was going through this

5

trial, and Mr. John White had got

6

sentenced, I was out there.

7

I heard a lot of court officials

8

say she's going to feel a lot of heat

9

behind this. And I heard a lot of people

10

say that she is not running. And that she

11

has nothing to worry about.

12

It was a --political. They was

13

thinking more political, and not thinking

14

about a person's life.

15

And I ask you, your Honor, think

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about my life please. Please think about

17

my life.

18

I'm more of an asset to people on

19

the outside, than to be on the inside.

20

My --me and my wife made vows

21

yesterday. Tomorrow it will be a year.

22

We haven't been able to enjoy our

23

wedding -- I mean I our marriage,

24

whatsoever.

25

I just ask for the chance, your

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Honor. You could sentence me now. You go home to your family. And everybody go home with their family.

3

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But for 8 weeks -- 8 and a half weeks, I drove from the city; an hour and a half back and forth. Back and forth.

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Even my mother got sick because we used to sit in the car. It was cold. She got sick. She couldn't come the last week because she was sick.

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I was obedient to the Court.

Your Honor, I thank you for the opportunity to express my gratitude. And I just hope you understand how much I appreciate you for being the Judge that you are.

18

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I'm not looking for no pity party, as the District Attorney say. And I'm just telling you from my heart, your Honor.

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If I lied to you, may God strike me down right now. I am a man of God. And I will walk with God, just like he walked with me. And I will be consistent with

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him. And I will have faith all the way,
your Honor.

And I thank you for this
opportunity -- for giving me this
opportunity to tell you, because I
couldn't speak a lot of the times. It was
just, we got new court date. I never knew
what was going on. I never knew what was
going on.

So, I thank you, your Honor. And I
want to once again thank my Counsel, Mr.
Keahon, for his hard work, man. And his
honesty to me, man.

That's all I wanted, was honesty.
And if I had him in the beginning, I
probably wouldn't be here.

And I want to thank my family for
their prayers, and their support, and
their love.

Your Honor, man, thank you.

THE COURT: You're welcome.

Mr. Whitehead, when you came before
this Court, you were released. You came
back every occasion.

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2 You refered to the way you were
3 treated by this Court. The Court viewed
4 you as an innocent man at all times, until
5 that one moment. This is when you talk
6 about judges before, you forgot about 12
7 other ones.

8 You had one Judge of the law. And
9 you --according to best of my ability, I
10 attempted to make sure that you received a
11 --all your legal and constitutional
12 rights. And that is for a higher and
13 wiser Court to determine; whether or not
14 my decisions were in error or not. And as
15 always, I accept their decision, their
16 determination, and their direction.

17 But you had 12 sworn judges of the
18 facts -- strangers to you --that heard all
19 the evidence in this case, and unanimously
20 found that you had committed these crimes.

21 You could declare your innocence.
22 That is your right. But when --in the
23 same token, repentance does earn a reward
24 when it is sincere.

25 Initially, the Court imposes upon

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you as part of your sentence a mandatory state surcharge in the amount of \$320.00.

THE CLERK: There's restitution.

THE COURT: That will be waived in light of the restitution judgement orders which are being executed at this time in the amount of \$55,000.00 to Capital One Auto Finance Group, and \$64,000.00 to E Loan Corporation.

The Court is also granting the People's application for a Permanent Order of Protection against you.

You'll have no contact with Anita Bryant or Georgia Fortune.

If you violate the terms of that Order of Protection, charges could be filed against you. Which, depending upon the manner in which they are violated, if they result in serious physical injury to beneficiary, your could receive up to 7 years in state prison for Aggravated Criminal Contempt.

Initially, I would like to commend the attorneys in this case. Mr. Keahon;

1
2 in spite of overwhelming proof presented
3 by the People, you represented your client
4 zealously, and with dignity, in the best
5 tradition of the Defense Bar. And it was
6 truly an honor to have you before this
7 Court. I thank you.

8 And for the District Attorneys, Mr.
9 Pearl, Ms. Francese; I wish to convey the
10 Court's praise for the thoroughness and
11 skill with which the Prosecution presented
12 their evidence and legal argument.

13 In particular, the Court wishes to
14 note that during this trial, Mr. Pearl,
15 Defense Counsel's request, undertook an
16 investigation to obtain what could
17 possibly be exculpatory evidence relating
18 to a computer. Such an act of attempt to
19 pursue what could be exonerated proof,
20 amply demonstrates that despite your
21 vigorous accuracy, you never lost sight of
22 your obligation not to obtain a
23 conviction, but to see that justice be
24 done.

25 You have the Court's thanks.

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For you, Mr. Whitehead, I could have no thanks or praise. Despite your vehement protestation of innocence, the jury has decided otherwise. And they have defined reality as far as I'm concerned.

At this time, my concern is exclusively towards your victims. Those decent people whose names that you stole so you could have a lifestyle that they couldn't afford, and you didn't deserve.

Where the mitigating factors that could justify a merciful sentence; I assure you, Mr. Whitehead, I have looked for them. I have sifted for them. I do so in every case before me.

You have a mother who sent me a letter, who loves you very much. You have a wife who has stood by you, and a young son who needs his father. And it does weigh upon me.

I know that in sentencing you, I sentence them. They did no wrong. Nothing wrong, at all.

But your victims also have

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families; whose lives that you disrupted.

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And I looked very closely at the
Presentence Report, for any sign of
remorse. I looked very closely at you now
as you spoke. I noted that as you
spoke -- I looked at you. You didn't look
away.

I was looking for something.
Remorse, repentance, taking
responsibility. Something that would show
that you understood the enormity of what
you did.

But you consider yourself to be a
victim. That is wrong. In light of what
the jury has said, that is wrong.

I don't need a Presentence Report
to tell me everything about you, because
you forget something, Mr. Whitehead. That
I watched you the entire trial, as well.

The only emotion that I ever saw
you display, was anger.

Various witness testified.

Shame, and remorse, and repentance;
that would be appropriate under the

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circumstances, and perhaps would move this Court to mercy-- were, and continue to be conspicuously absent.

The Court is left with the question of how to punish such behavior. How to address it.

Such crimes --there's been new law enacted in 2002. Your victims have all suffered.

The Court-- from the probation report --demonstrates you have changed their lives, credit rating, and reduced business practice. Changed due to the fear that you put in them.

Your lack of remorse, though, shows that you are more than capable of resuming the scheme once you return to society. Preventing this from occurring while you're incarcerated.

I have been informed that the New York State Department of Corrections will prevent you from having computer access while in their care.

So, Lamar Whitehead, it is the

1
2 sentence of this Court that you be taken
3 from this place, and turned over to the
4 custody of the New York State Department
5 of Corrections. And while in their charge
6 and care, you'll serve the following
7 period of incarceration:

8 For Count One of the indictment;
9 Scheme to Defraud in the First Degree, an
10 indeterminate period of incarceration of
11 not less than one and a third, to no more
12 than four years in state prison.

13 For Count Three of the indictment;
14 Identity Theft in the First Degree, an
15 indeterminate period of incarceration of
16 not not less than one, to no more than
17 three years in state prison.

18 As to Count Four of the indictment;
19 Identity Theft in the First Degree, an
20 indeterminate period of incarceration of
21 not less than one, to no more than three
22 years in state prison.

23 As to Count Six of the indictment;
24 for Identity Theft in the Third Degree, a
25 determinate period of incarceration of one

1
2 year.

3 As to Count Ten of the indictment;
4 Identity Theft in the First Degree, an
5 indeterminate period of incarceration of
6 not less than one, no more than three
7 years in state prison.

8 As to Count Twelve; Identity Theft
9 in the First Degree, an indeterminate
10 period of incarceration of not less than
11 one, to no more than three years in state
12 prison.

13 And as to Count Fourteen of the
14 indictment; Attempted Grand Larceny in the
15 Second Degree, an indeterminate period of
16 incarceration of not less than one, no
17 more than three years in state prison.

18 As to Count Fifteen of the
19 indictment; Identity Theft in the First
20 Degree, an indeterminate period of
21 incarceration of not less than one, no
22 more than three years in state prison.

23 As to Count Sixteen of the
24 indictment; Identity Theft in the First
25 Degree, an indeterminate period of

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incarceration of not less than one, no more than three years.

As to Count Nineteen of the indictment; Identity Theft in the First Degree, an indeterminate period of incarceration of one to three years.

As to Count Twenty of the indictment; Identity Theft in the First Degree, an indeterminate period of incarceration of one to three years.

As to Count Twenty One; Identity Theft in the Third Degree, a determinate period of incarceration of one year.

As to Count Twenty Two; Identity Theft in the First Degree, an indeterminate period of incarceration of one to three years.

As to Count 24; Identity Theft in the First Degree; an indeterminate period of incarceration of one to three years.

As to Count Thirty 30; Identity Theft in the First Degree, an indeterminate period of incarceration of one to three years.

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2 As to Count Thirty Six; Identity
3 Theft in the First Degree, an
4 indeterminate period of incarceration of
5 one to three years.

6 As to Count Forty Two; Identity
7 Theft in the First Degree, an
8 indeterminate period of incarceration of
9 one to three years.

10 These counts are charges relating
11 to the names --lives of 9 persons. Mary
12 Macarle, Nerina and Raymond Sperl, Nauri
13 Khabieh, Joseph Sweeney, Gloria Conaty,
14 Brian Smith, Woyciech Wachnik, Briton
15 Lawlor, and one company; Land Rover of
16 Massapequa.

17 Although these convictions pertain
18 to Identity Theft, and Attempted Grand
19 Larceny; they could all theoretically run
20 consecutively.

21 The Court is mindful of the
22 guidance provided by the Appeals Courts,
23 which warn against such remedy which may
24 be violative to the 8th Amendment.

25 Defense Counsel has pointed out

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these were non-violent crimes. I thank

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him for that advice. I'm aware of the

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sentence handed down to violent offenders.

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Some allowance must be made.

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I say this to you, Mr. Whitehead.

7

You fired no pistol. You furnished no

8

blade. You drew no blood.

9

You are probably one of the most

10

dangerous men ever to walk into my

11

courtroom. You are a new type of

12

criminal. The internet predator. I find

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your potential to be as frightening as the

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internet is promising.

15

Let's reflect for a moment on the

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effect you had on the lives of some of

17

your victims --as the People eloquently

18

detailed-- resulting from your crimes, as

19

far as their lost credit.

20

Some people won't --Maria Macarle

21

is no longer using the internet.

22

Ms. Sperl-- she and her husband are

23

no longer applying for instant credit.

24

Mr. Wachnik said he worked very

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hard since he came to this country in

1
2 hopes of having a better life. His credit
3 score is not the same. He is afraid to
4 open his mail; thinking that you have
5 given his information to someone else.

6 Mr. Lawlor recalled missing time at
7 work. He had to change all his credit
8 cards because of what you did.

9 All of this leads me to say you
10 must be stopped, and all who would follow
11 your example. Just as importantly, your
12 victims should see that the person who
13 stole their most precious possession of
14 all --since it's a day for quotation --I
15 won't quote scripture to you, because you
16 are a better authority. But Shakespeare
17 said, "Good name in men and women dear my
18 Lord is the immediate jewel of their
19 souls. He who steals my purse steals
20 nothing. Tis trash. And has been slave
21 to thousands. But he who robs me of my
22 good name, steals from me that which not
23 enriches him, but it leaves me poor
24 indeed."

25 Accordingly, your sentence shall

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run consecutively. In part, based upon
the number of your victims.

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Count One; Scheme to Defraud, will
be imposed consecutively with all other
sentences imposed herein.

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Counts Three, Four, and Six
pertaining to Ms. Marcarle, will run
concurrently with each other, consecutive
with all other counts.

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Count Ten, pertaining to Ms. Sperl,
will run consecutively to all other
counts.

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Count Twelve, pertaining to Mr.
Khabieh, will run consecutive with all
other counts.

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Count Fourteen, pertaining to Land
Rover of Massapequa, will run consecutive
with all other counts.

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Counts Fifteen and Sixteen,
pertaining to Mr. Sweeney, will run
concurrently with each other, and
consecutively with all other counts.

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Counts Nineteen, Twenty, and Twenty
One, pertaining to Mr. Wachnik, will run

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concurrently with each other, and
consecutive with all other counts.

Counts Twenty Two and Twenty Four,
pertaining to Mr. Lawlor, will run
concurrently with each other, and
consecutive with all other counts.

Count Thirty, pertaining to Mr.
Smith, will run consecutively with all
other counts.

Count Thirty Six, pertaining to Mr.
Sperl, will run consecutively with all
other counts.

Count Forty Two pertaining to Ms.
Conaty, will run consecutive with all
other counts.

For a total of not less than 10, no
more than 30 years in state prison.

Pursuant to Penal Law Section 7.30,
this sentence shall be deemed to be
indeterminate term of 10 to 20 years.

At this time I wish to advise you
you have a right to appeal this sentence
imposed upon you by filing a notice of
appeal with the Clerk of this Court within

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30 days from today's date.

A similar notice must be served upon the District Attorney.

If you can not afford an attorney, you may make application to have an attorney assigned to you without charge.

Although discussed at length, Mr. Keahon; for the record at your convenience, would you be so kind as to advise your client of his rights to appeal in writing?

MR. KEAHON: I will, Judge.

He'll be filing.

THE COURT: Excuse me. The Order of Protection expiration date; in light of the Court's sentence, will be June 30, 2036.

MR. KEAHON: We'll be filing a notice of appeal this week, Judge.

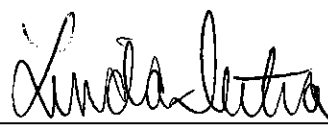
THE COURT: Thank you.

Follow the Officers' instructions, please.

* * * * *

C E R T I F I C A T I O N

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3 I, Linda Dutra, hereby certify that the above
4 and foregoing is a true and accurate transcription of
5 my stenographic notes.
6

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8 
9 LINDA DUTRA
Senior Court Reporter

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